	Case 1:22-cv-01490-ADA-SKO Docume	ent 7 Filed 01/17/23 Page 1 of 2
1		
2		
3		
4		
5		
6		
7		
8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
10		
11	OSBALDO REYES,	No. 1:22-cv-01490-SKO (HC)
12	Petitioner,	FINDINGS AND RECOMMENDATIONS
13	V.	TO DISMISS PETITION
14	THERESA CISNEROS,	[TWENTY-ONE DAY DEADLINE]
15	Respondent.	
16		
17	Petitioner is a state prisoner proceeding	g pro se and in forma pauperis with a petition for
17 18		g <i>pro se</i> and <i>in forma pauperis</i> with a petition for 2254. He filed the instant petition on November
		2254. He filed the instant petition on November
18	writ of habeas corpus pursuant to 28 U.S.C. § 18, 2022. The petition does not challenge the	2254. He filed the instant petition on November
18 19	writ of habeas corpus pursuant to 28 U.S.C. § 18, 2022. The petition does not challenge the Petitioner's gang validation by the California	2254. He filed the instant petition on November underlying conviction; rather, it challenges
18 19 20	writ of habeas corpus pursuant to 28 U.S.C. § 18, 2022. The petition does not challenge the Petitioner's gang validation by the California ("CDCR"). After conducting a preliminary re-	2254. He filed the instant petition on November underlying conviction; rather, it challenges  Department of Corrections and Rehabilitation
18 19 20 21	writ of habeas corpus pursuant to 28 U.S.C. § 18, 2022. The petition does not challenge the Petitioner's gang validation by the California ("CDCR"). After conducting a preliminary reto consider the claims. The Court dismissed to	2254. He filed the instant petition on November underlying conviction; rather, it challenges Department of Corrections and Rehabilitation eview, the Court found it lacked habeas jurisdiction
18 19 20 21 22	writ of habeas corpus pursuant to 28 U.S.C. § 18, 2022. The petition does not challenge the Petitioner's gang validation by the California ("CDCR"). After conducting a preliminary reto consider the claims. The Court dismissed to opportunity to file an amended petition to present the control of the court dismissed to the consideration of the court dismissed to opportunity to file an amended petition to present the court dismissed to opportunity to file an amended petition to present the court dismissed to opportunity to file an amended petition to present the court dismissed to opportunity to file an amended petition to present the court dismissed to opportunity to file an amended petition to present the court dismissed the court dismissed to opportunity to file an amended petition to present the court dismissed the	2254. He filed the instant petition on November underlying conviction; rather, it challenges Department of Corrections and Rehabilitation eview, the Court found it lacked habeas jurisdiction the petition; however, Petitioner was granted an
18 19 20 21 22 23	writ of habeas corpus pursuant to 28 U.S.C. § 18, 2022. The petition does not challenge the Petitioner's gang validation by the California ("CDCR"). After conducting a preliminary reto consider the claims. The Court dismissed to opportunity to file an amended petition to presto file an amended petition has passed, and Petition 18, 2022.	2254. He filed the instant petition on November underlying conviction; rather, it challenges Department of Corrections and Rehabilitation eview, the Court found it lacked habeas jurisdiction the petition; however, Petitioner was granted an esent a cognizable claim. (Doc. 5.) The time allotted
18 19 20 21 22 23 24	writ of habeas corpus pursuant to 28 U.S.C. § 18, 2022. The petition does not challenge the Petitioner's gang validation by the California ("CDCR"). After conducting a preliminary reto consider the claims. The Court dismissed to opportunity to file an amended petition to presto file an amended petition has passed, and Petition 18, 2022.	2254. He filed the instant petition on November underlying conviction; rather, it challenges Department of Corrections and Rehabilitation eview, the Court found it lacked habeas jurisdiction the petition; however, Petitioner was granted an esent a cognizable claim. (Doc. 5.) The time allotted etitioner has not filed an amended petition. Thus, for
18 19 20 21 22 23 24 25	writ of habeas corpus pursuant to 28 U.S.C. § 18, 2022. The petition does not challenge the Petitioner's gang validation by the California ("CDCR"). After conducting a preliminary reto consider the claims. The Court dismissed to opportunity to file an amended petition to presto file an amended petition has passed, and Petithe reasons stated in the order dismissing the DISMISSED.	2254. He filed the instant petition on November underlying conviction; rather, it challenges Department of Corrections and Rehabilitation eview, the Court found it lacked habeas jurisdiction the petition; however, Petitioner was granted an esent a cognizable claim. (Doc. 5.) The time allotted etitioner has not filed an amended petition. Thus, for
18 19 20 21 22 23 24 25 26	writ of habeas corpus pursuant to 28 U.S.C. § 18, 2022. The petition does not challenge the Petitioner's gang validation by the California ("CDCR"). After conducting a preliminary reto consider the claims. The Court dismissed to opportunity to file an amended petition to presto file an amended petition has passed, and Pethe reasons stated in the order dismissing the DISMISSED.	2254. He filed the instant petition on November underlying conviction; rather, it challenges Department of Corrections and Rehabilitation eview, the Court found it lacked habeas jurisdiction the petition; however, Petitioner was granted an esent a cognizable claim. (Doc. 5.) The time allotted etitioner has not filed an amended petition. Thus, for petition, the Court will recommend the petition be  ORDER  Clerk of Court is DIRECTED to assign a district
18 19 20 21 22 23 24 25 26 27	writ of habeas corpus pursuant to 28 U.S.C. § 18, 2022. The petition does not challenge the Petitioner's gang validation by the California ("CDCR"). After conducting a preliminary reto consider the claims. The Court dismissed to opportunity to file an amended petition to presto file an amended petition has passed, and Pethe reasons stated in the order dismissing the DISMISSED.	2254. He filed the instant petition on November underlying conviction; rather, it challenges Department of Corrections and Rehabilitation eview, the Court found it lacked habeas jurisdiction the petition; however, Petitioner was granted an esent a cognizable claim. (Doc. 5.) The time allotted etitioner has not filed an amended petition. Thus, for petition, the Court will recommend the petition be

## Case 1:22-cv-01490-ADA-SKO Document 7 Filed 01/17/23 Page 2 of 2 judge to this case. RECOMMENDATION Accordingly, the Court RECOMMENDS that the petition be DISMISSED for lack of jurisdiction. This Findings and Recommendation is submitted to the United States District Court Judge assigned to the case pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and Rule 72-304 of the Local Rules of Practice for the United States District Court, Eastern District of California. Within twenty-one (21) days after being served with a copy of this Findings and Recommendation, Petitioner may file written objections with the Court. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendation." The Court will then review the Magistrate Judge's ruling pursuant to 28 U.S.C. § 636 (b)(1)(C). The parties are advised that failure to file objections within the specified time may waive the right to appeal the Order of the District Court. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991). IT IS SO ORDERED. Isl Sheila K. Oberto Dated: **January 13, 2023** UNITED STATES MAGISTRATE JUDGE